CONFERENCE ON DISARMAMENT

CD/1553
31 August 1998

Original: ENGLISH

LETTER DATED 28 AUGUST 1998 FROM THE PERMANENT REPRESENTATIVE OF EGYPT ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT TRANSMITTING THE TEXT OF RESOLUTION 1998/30 ENTITLED "INJURIOUS EFFECTS OF ANTI-PERSONNEL LANDMINES", ADOPTED (WITHOUT A VOTE) BY THE 50TH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON 26 AUGUST 1998

With reference to my intervention dated 27 August 1998, please find enclosed Resolution 1998/30 entitled "Injurious effects of anti-personnel landmines" which was adopted on 26 August 1998 by the Commission on Human Rights/Sub-Commission on Prevention of Discrimination and Protection of Minorities, Fiftieth session.

I kindly request you to give the necessary instructions to circulate the said resolution as a document of the Conference on Disarmament.

(Signed) Mounir Zahran
Ambassador
Permanent Representative

GE.98-63381

1998/30. Injurious effects of anti-personnel landmines

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Aware that anti-personnel landmines inflict harm on human beings and in the process cause grave violations of human rights, in particular the right to life,

Recalling its resolutions 1995/24 of 24 August 1995, 1996/15 of 23 August 1996 and 1997/33 of 23 August 1998 in which it declared itself in favour of a total ban of the production, marketing and use of these weapons,

Stressing the importance of assisting the victims of such weapons as well as ensuring that those which have been deployed are completely destroyed,

Stressing also the importance for the Sub-Commission to follow up this issue in order to guarantee the full respect and implementation of all relevant legal instruments,

Taking note with satisfaction of the establishment of zones free of anti-personnel landmines in the Mercosur countries (Argentina, Brazil, Paraguay, Uruguay) and in Bolivia and Chile,

Welcoming the award of the 1997 Nobel Peace Prize to the International Campaign to Ban Land Mines,

Welcoming also the adoption of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction in December 1997 and its signature by almost one hundred and thirty countries, and recalling that the Convention is to enter into force after forty countries have ratified it,

Noting with satisfaction that thirty-two countries have already ratified the Convention,

Regretting the new deployment of landmines in zones of armed conflict despite all warnings against their deployment and knowledge of the horror they cause to their innocent victims, especially children and other vulnerable groups,

Bearing in mind that landmines cause death, maiming and psychological damage to their victims, are a deterrent to development and harm the environment,

Underscoring the continuous threat that old and abandoned landmines pose to human lives as well as their detrimental effects for development efforts,

Stressing the urgency for mine clearance in the affected zones in order that civilians in such zones can fully enjoy their human rights,

Regretting the lack of sufficient financial resources to increase mine clearance and medical assistance for victims of anti-personnel landmines,

1. Reaffirms its support for a total ban on the production, stockpiling, transfer and use of landmines, as well as the destruction of the existing mines, as a means to protect basic human rights and in particular the right to life;

2. Urges States that have not yet done so to sign and ratify the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects and all the Protocols thereto, including Protocol II on Prohibitions and Restrictions on the Use of Mines, Booby-Traps and Other Devices as Amended on 3 May 1996;

3. Strongly urges all States that have not yet done so to sign and ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction adopted in Ottawa in December 1997;

4. Urges all States to modify their legislation where necessary in accordance with the wording of the Ottawa Convention, in full respect of its articles and spirit, including the clause prohibiting any reservations to the Convention;

5. Urges all countries responsible for the laying of anti-personnel landmines in foreign territoreis to assume full responsibility for the necessary mine-clearance operations and to cooperate with the host countries for this purpose in every possible way, in particular developing countries;

6. Underlines the importance for non-State actors also to renounce the use of anti-personnel landmines;

7. Encourages Member States to continue the process of establishing regional and subregional zones free of anti-personnel landmines;

8. Reiterates its request to Governments and the international community to pursue an overall policy of prevention, rehabilitation and reintegration of the victims of landmines as well as to multiply their efforts in mine-clearance programmes in the affected zones and their aid to victims of anti-personnel landmines;

9. Again encourages Governments, organizations and individuals that can do so to respond favourably to the request for voluntary contributions to the United Nations mine-clearance programme, or to increase existing contributions;

10. Requests the Secretary-General to reiterate to all Governments, in particular those of States which in the past have laid anti-personnel landmines in or sold them to other States, the Sub-Commission's appeal for contributions to the mine-clearance programme and the Voluntary Trust Fund for Assistance in Mine Clearance established in 1994;

11. Decides to consider this question at its fifty-first session under the same agenda item and to establish the necessary measures to ensure the follow-up and implementation of international humanitarian law and treaties in order that everyone may fully enjoy all their human rights.

35th meeting
26 August 1998

[Adopted without a vote. See chap. XIV.]

CONFERENCE ON DISARMAMENT

CD/1554
1 September 1998

Original: ENGLISH

REPORT OF THE AD HOC COMMITTEE ON EFFECTIVE INTERNATIONAL ARRANGEMENTS TO ASSURE NON-NUCLEAR-WEAPON STATES AGAINST THE USE OR THREAT OF USE OF NUCLEAR WEAPONS

I. INTRODUCTION

1. At its 791st plenary meeting on 26 March 1998, the Conference on Disarmament decided "to establish for the duration of its 1998 session an Ad Hoc Committee under agenda item 4, entitled 'Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons', to negotiate with a view to reaching agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. These arrangements could take the form of an internationally legally-binding instrument. The Ad Hoc Committee shall take into consideration all relevant views and proposals present and future and also address questions related to its mandate" (CD/1501).

II. ORGANIZATION OF THE WORK AND DOCUMENTS

2. At its 792nd plenary meeting on 14 May 1998, the Conference on Disarmament appointed Ambassador Antonio de Icaza of Mexico as Chairman of the Ad Hoc Committee. Mr. V. Bogomolov, Political Affairs Officer, United Nations Department for Disarmament Affairs, served as Secretary of the Ad Hoc Committee.

3. Between 19 May and 1 September 1998, the Ad Hoc Committee held 9 meetings. The Chairman also conducted informal consultations on specific concrete aspects of the agenda item, as well as several meetings with Group Co-ordinators and other representatives.

4. The following new documents were submitted to the Committee in connection with the item during the 1998 session:

CD/1502	Dated 2 April 1998, submitted by Canada, entitled "Questions related to work in the Conference on Disarmament on Negative Security Assurances"
CD/1534	Dated 28 May 1998, submitted by Colombia, entitled "Ministerial Meeting of the Co-ordinating Bureau of the Non-Aligned Movement. Cartagena de Indias, Colombia, 19-20 May 1998"
CD/1542	Dated 11 June 1998, submitted by Sweden, entitled "Joint Declaration by the Ministers for Foreign Affairs of Brazil, Egypt, Ireland, Mexico, New Zealand, Slovenia, South Africa and Sweden"

CD/SA/WP.15/Add.1	Dated 5 June 1998, entitled "Addendum to Compilation of basic documents relating to the question of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons"
and Corr.1 (English only)	Dated 15 June 1998
CD/SA/WP.20*	Dated 11 August 1998, entitled "Programme of Work"
CD/SA/WP.21	Dated 26 August 1998, entitled "Draft report of the Ad Hoc Committee on Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons"

III. SUBSTANTIVE WORK

5. During the meetings of the Ad Hoc Committee, various delegations reaffirmed their respective positions, the detailed descriptions of which can be found in the related Conference documents and the Plenary Records, or further elaborated them. A summary of the views and national positions as stated in the Ad Hoc Committee during the deliberations in 1998 is annexed to this report.

6. During the general exchange of views, most delegations reiterated the particular importance they attached to the question of international arrangements to assure non-nuclear-weapons States against the use or threat of use of nuclear weapons and expressed their readiness to engage in a search for a mutually acceptable solution of the issue.

7. In addition to the general exchange of views and in accordance with the Programme of Work, the Ad Hoc Committee held a number of meetings devoted to structured, thematic discussions of the following issues:

Nature and scope of existing negative security assurances

United Nations Security Council resolution 984 (1995)
Declarations of Nuclear-Weapon States
Protocols to the Nuclear-Weapon-Free-Zone Treaties
and their interpretative statements

(a) Common and distinctive elements

(b) Needed clarifications

- invasion
- aggression
- attack
- dependent territories
- security commitment
- association or alliance

(c) New developments

Positive security assurances

IV. CONCLUSIONS AND RECOMMENDATIONS

8. The Ad Hoc Committee reaffirmed that, pending the complete and effective elimination of nuclear weapons, non-nuclear-weapon States should be effectively assured by the nuclear-weapon States against the use or threat of use of nuclear weapons. At the same time, the relationship between the question of negative and positive security assurances was noted.

9. It was felt that any further negotiations on the issue of negative security assurances should take fully into account the outcome of the 1998 deliberations in the Committee as well as the recommendations and suggestions of the previous sessions.

10. It was agreed to recommend to the Conference on Disarmament to re-establish the Ad Hoc Committee at the beginning of the 1999 session.

A N N E X

The following is a summary of the views and national positions expressed in the Ad Hoc Committee in 1998.

1. During the general exchange of views, various States insisted on the legitimate character of the claims of non-nuclear-weapon States for negative security assurances and felt that there was a need to step up efforts and to proceed to negotiations with a view to reaching agreement as soon as possible. Some of them reiterated their deep conviction that the complete elimination of nuclear weapons was the only effective assurance against the use or threat of use of nuclear weapons and stressed the necessity to recognize the right of non-nuclear-weapon States not to be attacked or threatened with these weapons. They reaffirmed the need to conclude a multilateral agreement of a legally-binding character. Some delegations reiterated their view that non-nuclear-weapon States Parties to the NPT or to regional nuclear-weapon-free zones were entitled to immediate, unconditional, legally-binding and comprehensive security assurances, which would not be limited in scope, framework or duration, since they had already fulfilled their engagement towards non-proliferation and nuclear disarmament.

2. Some delegations underlined that negative security assurances were an essential element for those countries which did not possess nuclear weapons and an essential step in the process of non-proliferation in all its aspects. In their view, such assurances should be enshrined in a legally-binding instrument, negotiated multilaterally, for which the Conference on Disarmament was the appropriate forum, and these assurances should be unconditional and based on an unequivocal, unambiguous, straight-forward formula. There was an opinion that security assurances had been established as an important element in the non-proliferation regime, but that there was a difference of appreciation on the content, on the scope and on the legal instrument that was to contain them. Certain delegations stressed that the conclusion of arrangements containing security assurances should not be construed as legitimizing the indefinite possession of nuclear weapons, and the only effective and credible guarantee against the use or threat of use of nuclear weapons was the total elimination of these weapons and therefore of the threat posed by their existence.

3. A number of delegations mentioned, with appreciation, the contribution of Canada, which had raised very pertinent questions related to the work in the Conference on Disarmament on negative security assurances (CD/1502).

4. Addressing the issue of current military doctrines and the role of nuclear weapons, certain delegations noted that nuclear weapons had been devised to counter other nuclear weapons in a given political situation, which had disappeared, and the new political environment required reconsideration of the perception of threat and of the role of nuclear weapons in the contemporary world.

5. A number of States continued to maintain that until total elimination of nuclear weapons was achieved, as an interim measure, there existed on the part of nuclear-weapon States an obligation to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, and also that these weapons would not be used as instruments of pressure, intimidation or blackmail. This

obligation should be of an internationally, legally-binding character - clear, credible, universal and without discrimination.

6. One delegation stated that it would continue to call for the need to arrive at the global elimination of nuclear weapons. It emphasized that the positive assurances contained in Security Council resolution 255 did not meet the requirements of legally-binding assurances. The negative security assurances contained in Security Council resolution 984 did not meet the necessary requirements either, especially as unilateral and multilateral declarations were conditional declarations and were not global. This was why the sole negotiating forum to conclude an international legally-binding treaty was the Conference on Disarmament, and it was the first time that the Committee on Security Assurances had met since the NPT Review and Extension Conference was held in 1995 and Decision 2 on "Principles and objectives for nuclear non-proliferation and disarmament" was adopted there. It stressed that security assurances, whether positive or negative, had to be global, and they had to be the subject of negotiations within this Conference and within this Committee.

7. One State was of the view that negative security assurances, a long-standing demand of the non-nuclear-weapon States, was not accorded the same priority as the other items on the nuclear non-proliferation agenda and in fact, remained its poor cousin. According to that delegation, the consideration of security assurances had been plagued from the beginning with linkage, not with the objectives of nuclear disarmament, but with those of non-proliferation. Seen in the latter perspective, security assurances had remained confined to what the nuclear-weapon States had thought fit to provide at their discretion. There remained an unfulfilled need for these assurances to be multilaterally negotiated, legally-binding and comprehensive. Security assurances remained as interim measures without an objective, save that of finding a place in a framework that enabled the nuclear-weapon States to retain *in perpetuity* their privileged possession of nuclear weapons. Partial and conditional pledges of non-use of nuclear weapons, whether undertaken unilaterally or in separate undertakings, could not be the basis for credible guarantees for non-nuclear-weapon States. The State recalled that it had expressed strong reservations with the approach employed in United Nations Security Council resolution 255, which had been repeated in Security Council resolution 984 adopted on the eve of the indefinite extension of the NPT. It believed that the continuation of the same approach would not yield fruitful results. It emphasized that the United Nations Charter did not discriminate between those that might adhere to a particular treaty or those that might not, and the responsibility of the United Nations Security Council was to all Member States of the United Nations, without discrimination. The NPT, as it stood today, could not reflect ground realities and would be an inadequate framework for the consideration of security assurances. Thus, it did not recognize any linkage between the objectives of this Ad Hoc Committee and the NPT. It also indicated that the consideration of security assurances in the narrow strait-jacket of nuclear-weapon-free zones could not do justice to the wide variety of concerns that emanated from the global nature of the threat posed by nuclear weapons. Moreover, it did not consider the Conference on Disarmament as the appropriate forum for the consideration of regional issues. However, it respected the sovereign choice exercised by non-nuclear-weapon States in establishing nuclear-weapon-free zones on the basis of arrangements freely arrived at among the States of the region concerned. In this context, it had recently stated that it fully respected the status of the South East Asian nuclear-weapon-free zone and was ready to convert this commitment into a legal obligation. It also remained responsive to the

expressed need for commitments to other nuclear-weapon-free zones. The State believed that a convention on the prohibition of the use of nuclear weapons could form the bedrock of security assurances - comprehensive, legally-binding and irreversible. It recalled that it had proposed for consideration a draft convention on the prohibition of the use of nuclear weapons as an annex to United Nations General Assembly resolution 52/39C. It believed that such a convention could contribute to the lessening of the nuclear threat and to the climate for negotiations leading to nuclear disarmament. This Ad Hoc Committee could also consider various proposals for the global de-alerting and de-targetting of nuclear weapons, with the necessary verification mechanisms. The delegation was also willing to discuss ways of strengthening and giving expression, in a multilateral framework, to the provisions contained in the 1973 agreement between the USA and the USSR on the prevention of nuclear war. The delegation stated that as a responsible nuclear-weapon State, it had a declared policy of a minimum deterrent and "no-first-use" of nuclear weapons against all countries and "no-use" of nuclear weapons against non-nuclear-weapon States. It was willing to strengthen this by entering into bilateral agreements on no-first-use or multilateral negotiations on a global no-first-use.

8. One delegation emphasized that the need for security assurances arose from the existence of nuclear weapons, which were weapons of mass destruction, and their retention by any State - five, six, seven - was an aberration from the norm in which all weapons of mass destruction were supposed to be eliminated. In its view, it was an obligation on the nuclear-weapon States to provide such assurances, because under the international system, every State is entitled to equal security, and the possession of weapons of mass destruction gravely distorted this principle of equal security for all States and opened the door to blackmail and coercion, which was unacceptable as a means for the conduct of international relations under the United Nations Charter. The need for security assurances also arose fundamentally from the provisions of the United Nations Charter which very clearly stipulated that States had undertaken not to use or threaten to use force, and that meant all kinds of force with any kind of weapon. This State believed that it was only reasonable and logical that the provisions of the Charter on non-use of force also applied equally and with equal force to the question of the non-use or threat of use of nuclear weapons. The provision of security assurances derived as an obligation from the United Nations Charter and it was incumbent on all those States which retained nuclear weapons to be bound by these provisions of the United Nations Charter, not to use or threaten to use nuclear weapons, not only against non-nuclear-weapon States but also against each other. It disagreed with those nuclear-weapon States which had chosen to interpret the requirement for security assurances as merely being related to the NPT as a part of the "NPT bargain", that while they retained nuclear weapons, those parties to the NPT who were non-nuclear-weapon States were the only ones who were entitled to such assurances. This delegation had consistently argued that such a position was contrary to the provisions of the United Nations Charter and it created distinctions between States on the basis of their adherence to a particular treaty, which did not override the United Nations Charter. The distinction which had been drawn in resolution 255, and particularly in resolution 984, between the Parties to the NPT and non-Parties to the NPT had always been a false distinction which derogated the provisions of the Charter relating to collective security and the right of self-defence. Turning to the questions of who should give security assurances and to whom, it recalled that there were currently three categories of possible States who were to give security assurances - five nuclear-weapon States recognized by the NPT, one State which had demonstrated a nuclear-weapons capability and had

declared itself as a nuclear-weapon State, and another State which had demonstrated nuclear-weapons capability, but had not claimed nuclear-weapons status. There was one State which was presumed to have nuclear-weapons capability and was also, like the last two, not a Party to the NPT. In this respect, the delegation felt that this was a most relevant question that the Committee would need to address in its deliberations. The current political landscape became even more complicated than ever before due to the fact that new military doctrines today envisaged the use and indeed, even the first use, of nuclear weapons against non-nuclear-weapon States, even those Parties to the NPT or nuclear-weapon-free zones, in the event that they possessed or threatened to use or actually used any other weapon of mass destruction. Therefore, according to this delegation, the scope of the threat of use of nuclear weapons had become broader. In the present political situation what was required was to go back to the provisions on collective security envisaged in the United Nations Charter and to try to see whether it was not possible for all States to provide mutual guarantees of non-use and non-threat of use of nuclear weapons in the same way and with the same clarity that the United Nations members had committed themselves to the non-use of force or threat of force under the Charter.

9. Another delegation stated that one test of the commitment to security assurances should be the ratification by the nuclear-weapon States of the Protocols to the nuclear-weapon-free-zone treaties. The development and conclusion of new nuclear-weapon-free-zone treaties, especially in the areas of tension, would be a valuable step forward and one which this country supported on the basis of arrangements freely arrived at by the countries concerned. However, in its view, extending security assurances further through a single international and legally-binding instrument would be a complex challenge. Variance and nuances in current nuclear doctrines would point to difficulties in seeking a single instrument.

10. Another delegation stated its openness to finding a suitable solution which would consist in setting up a universal and legally-binding treaty. It considered that the time was ripe for entrusting the Chairman with the preparation of an outline of a multilateral treaty. As a first step, the delegation considered that it would be wise to start with negative security assurances, clarifying that their content had to be consistent with article 2, paragraph 4, of the United Nations Charter prohibiting the threat and use of force. In any case, should a treaty on negative security assurances be elaborated and negotiated, the parties which were non-nuclear-weapon States should be obliged to maintain their status in order to continue to claim negative security assurances. The latter should be given to all States parties to any treaty prohibiting the possession of nuclear weapons.

11. Another delegation stressed that non-nuclear-weapon States that had legally renounced their nuclear options had the legitimate right to demand negative security assurances from the nuclear-weapon States. It stressed that one of the fundamental premises of the NPT was of a discriminatory nature. Therefore, the implementation of article VI of the NPT on nuclear disarmament and the issue of negative security assurances was crucial in order to rectify the discriminatory nature of that Treaty. Security assurances were not only necessary for enhancing the actual security of non-nuclear-weapon States but also relevant to the maintenance and consolidation of the non-proliferation regime itself. It believed that the unilateral declarations by the five nuclear-weapon States in 1995 and Security Council resolution 984 of the same year were significant and their value should not be underestimated. Nor should the importance of

paragraph 8 of the Principles and Objectives of the Final Document of the 1995 NPT Review and Extension Conference be neglected. Therefore, in accordance with that paragraph, that State supported efforts to seek further steps in the context of negative security assurances to determine whether such steps could indeed take the form of an international, legally-binding instrument.

12. In this regard, another group of States recalled that in view of the importance they attached to the issue of security assurances, they had extended unilaterally, in April 1995, both negative and positive security assurances, of which the Security Council took note in resolution 984. Some of these countries recognized that States which had renounced nuclear weapons were entitled to look for assurances that nuclear weapons would not be used against them.

13. One of those countries stressed that in the current state of affairs, security assurances were an instrument of protection for non-nuclear-weapon States against the use or threat of use of such weapons by nuclear-weapon States. It elaborated two aspects of its approach to security assurances, regional and global. In its view the regional dimension had become increasingly affirmed in recent years through the creation and consolidation of nuclear-weapon-free zones. Because of them, about a hundred States enjoyed negative security assurances from nuclear-weapon States under Protocols annexed to the treaties creating these nuclear-weapon-free zones. It recalled that its Government had ratified all the Protocols to the Tlatelolco, Rarotonga and Pelindaba Treaties and was prepared, in the same constructive spirit, to follow the events in Central Asia where five States had committed themselves to the creation of a new nuclear-weapon-free zone, as well as in Southeast Asia, the Middle East and South Asia. Speaking of the global dimension of negative security assurances, it recalled that its security assurances had been renewed and developed in its statement of 6 April 1995 in the Conference on Disarmament and reflected in Security Council resolution 984. The State suggested that important complementary work could take the following direction: to facilitate the creation of nuclear-weapon-free zones where the United Nations General Assembly recommends so, and to draw up elements for the harmonization of negative security assurances, in particular, instruments where nuclear States could accede to the view of favouring the co-operation between existing zones and the emergence of new zones, favouring specific solutions in respect of concerns of a State that could find itself in a very unique situation. It reaffirmed that it wished this work to take place in the Conference on Disarmament and not within the framework of preparatory work for the NPT Review Conference, which could provide a place for useful, complementary discussions but where all the various protagonists would not be parties to the deliberations. Regarding the scope of the mandate of the Ad Hoc Committee, the delegation stated that it had no objection to discussing the question of positive security assurances, though the question of negative security assurances was, perhaps, the one on which more concrete and more fruitful, results could be achieved.

14. Another nuclear-weapon State stated that the drafting and provision of security guarantees against the use or threat of use of nuclear weapons in April 1995 to the States which had voluntarily given up their acquisition was an important point in strengthening the non-proliferation regime, which was necessary for ensuring stability in the world. This was particularly important, given the recent events in South Asia. It recalled that apart from the harmonized unilateral declarations of 1995, that State had also provided, together with the United States and the United Kingdom, security guarantees to

Belarus, Kazakstan and Ukraine in 1994. It hoped that it would soon be possible to reach agreement on the creation of a nuclear-weapon-free zone in Southeast Asia, which would make it possible to provide guarantees to another eleven States. In this context, the delegation supported the initiative of Belarus on creating a nuclear-weapon-free space in Central and Eastern Europe. It was thought that a more careful consideration of the Belarus proposal could be an important step towards freeing another important region from the threat of nuclear weapons. This State had also been following with interest the process of the discussion of a nuclear-weapon-free zone in Central Asia. It emphasized that by increasing the number of zones and areas, there would be more countries with such assurances. In its view, it would be important to seek results within the framework of regional agreements. These should be sought in addition to already existing agreements on nuclear-weapon-free zones. The agreements of this kind would certainly be easier to obtain if the States in these regions were to become Parties to the NPT. It was clear that these guarantees had to be on the basis of clear and unambiguous obligations that the non-nuclear-weapon States did not acquire or did not possess, use or deploy nuclear weapons on their territories.

15. Another nuclear-weapon State pointed out that any discussion of effective international arrangements needed to be held with the understanding that there were various security assurances already in existence, and one of the key issues before this Committee was, could the existing arrangements be improved upon? With the regard to the scope of the Committee's mandate, it thought that the focus should be on negative security assurances, but it could support discussions on positive security assurances as was clearly demonstrated in the Presidential Statement of 5 April 1995, which addressed both negative security assurances and positive security assurances. It recalled that its unilateral declaration of 1995 was of mutual benefit to all nuclear and non-nuclear weapon States.

16. Another nuclear-weapon State felt that in view of the fact that the majority of non-nuclear-weapon States had undertaken to abandon the option of developing nuclear weapons, they were fully justified in demanding the nuclear-weapon States not to use or threaten to use nuclear weapons against them. Prior to the complete prohibition and destruction of all nuclear weapons, all the nuclear-weapon States should undertake that under no circumstances or conditions would they use nuclear weapons against non-nuclear-weapon States or nuclear-weapon-free zones. The new situation, since the end of the Cold War, should provide new opportunities for resolving issues related to negative security assurances. The nuclear-weapon States should give more consideration to the just demand of most of the non-nuclear-weapon States and adopt more positive, just and reasonable attitudes and policies towards the negative security assurances issues, which was not a unilateral favour granted by the nuclear-weapon States to non-nuclear-weapon States, but rather an obligation that the nuclear-weapon States should fulfill, because it was in the interest of improving the international security environment and removing the fundamental reason for some countries to acquire or develop nuclear weapons. The same State maintained that negative security assurances included two aspects, the first, that the nuclear-weapon States not use nuclear weapons against non-nuclear-weapon States and the second, that the nuclear-weapon States should not first use nuclear weapons against each other. In the new international situation, the policy of nuclear deterrence based on the first-use of nuclear weapons was against the trend of the times, and the relevant nuclear-weapon States should abandon this policy at an early date. It recalled that in 1994 it had formally

proposed that the nuclear-weapon States should try to reach an agreement on non-first use of nuclear weapons and it put forward a draft text of such a treaty. It was still hoping for a positive response to its proposal.

17. During the structured and thematic discussions provided for in the Programme of Work concerning the nature and scope of existing negative security assurances, including United Nations Security Council resolution 984 (1995), Declarations of nuclear-weapon States, Protocols to the Nuclear-Weapon-Free Zone Treaties and their interpretative statements, one delegation stated that security assurances should be duly negotiated without any restrictions and should be drawn up in a legally-binding, universal, international instrument, as these assurances were essential for structural non-proliferation. The failure of the second Preparatory Committee of the NPT Review Conference and recent events in South Asia seriously jeopardized the structure of non-proliferation, and it was necessary to re-establish its credibility, which could only be achieved by making clear progress towards nuclear disarmament and by establishing a credible regime of assurances for non-nuclear States. Security assurances should be viewed as a temporary, provisional measure, until the final elimination of nuclear weapons was achieved. It felt that for humanitarian considerations, general guarantees should be given without distinction as to the particular status of a country, and it would be up to the international community to grant these guarantees. Concerning the mandate of the Ad Hoc Committee, the delegation was prepared to study both negative security assurances and positive security assurances.

18. Another delegation specified that Security Council resolution 984 of 1995 was adopted on the eve of the NPT Review Conference in order to encourage non-nuclear-weapon States to extend this Treaty indefinitely . However, in this delegation's view, the resolution contained numerous shortcomings and insufficiencies. Thus, it believed that this resolution could be withdrawn or amended through another resolution. It was not an official document which was negotiated and which reflected the concerns of the international community as a whole, particularly of the non-nuclear-weapon States. The unilateral declarations, which came only from one side, contained exceptions which actually emptied the resolution of its real content. This delegation categorically rejected the use or threat of use of nuclear weapons. In its view, the Committee should negotiate an international, legally-binding treaty which would provide all the security assurances to non-nuclear-weapon States so that the NPT would have the necessary credibility. In this delegation's view, resolution 2 of the NPT Review and Extension Conference contained enormous shortcomings concerning the use of nuclear weapons.

19. Still another delegation pointed out that the legal nature of the unilateral declarations and commitments of negative security assurances arose from the fact that the Council had taken note of these declarations in a formal way. In its analysis of the relevant Security Council resolutions, it indicated that it considered resolution 984 as a further evolution of the provisions of resolution 255. However, the latter was conceived and evolved in the deliberations of the Conference on Disarmament, whereas resolution 984 was not referred to this single, multilateral negotiating body on disarmament and was evolved with the Security Council, quite independently from the Conference on Disarmament. This delegation thought that the most serious shortcoming of the security assurances offered in resolution 984, a flaw which also existed in resolution 255, was that these assurances were restricted only to non-nuclear-weapon States Parties to the NPT. It stated that it would continue to hold the

view that the assurance of security to non-nuclear-weapon States was an obligation of the nuclear-weapon States and not something which they could or should offer in return for the signature of a non-proliferation treaty. Any linkage of security assurances to the signature of the NPT would be contrary to the provisions of the United Nations Charter, which did not discriminate between those who adhered to a particular and those who might not do. In its view, it was of the utmost importance to conclude a convention on the comprehensive prohibition of nuclear weapons so as to bring about a general nuclear-free world and provide the fundamental assurance for mankind to rid itself of the threat of nuclear war.

20. On the issue of common and distinctive elements, one nuclear-weapon State elaborated its position which existed among the different types of negative security assurances, which may have been given. It pinpointed the different ways in which these assurances had been given. The first was resolution 984, the second, through the Protocols of the nuclear-weapon-free-zone treaties, and the third, given to Ukraine on 5 December 1994. Politically, they all had similar value but clearly there was a difference between a resolution, a declaration and the signature of protocols in the framework of nuclear-weapon-free-zone treaties, where the system was both contractual and legally-binding. The establishment of nuclear-weapon-free zones constituted progress from the point of legal protection given to the States concerned, as compared with resolution 984, on condition that the States concerned by the treaties in question did themselves ratify the treaties they had negotiated and signed together. Turning to the application of article 51 of the United Nations Charter, this delegation pointed out that in certain exceptional cases, countries might have to reconcile the assurance regime and the right to self-defence, individual or collective, reflected, *inter alia*, through commitments or alliances, be they bilateral or multilateral.

21. Another nuclear-weapon State reaffirmed the unconditional nature of its commitment, repeating that the security assurances provided by that country to non-nuclear-weapon States were not confined only to non-nuclear- weapon States Parties to the NPT but rather to all non-nuclear-weapon States. It also elaborated its position on the relationship between negative security assurances and the doctrine and policy of nuclear deterrence saying that the nuclear deterrence policies pursued by the nuclear-weapon States, based on the first-use of nuclear weapons, made it difficult for the non-nuclear-weapon States to realize their aspirations of negative security assurances - the unconditional assurance of negative security guarantees. The nuclear-deterrence strategy, based on the Cold-War mentality, and the first-use of nuclear weapons, continued to exist. However, this practice was untimely and senseless. Nuclear deterrence was not in the interest of the prevention of the proliferation of nuclear weapons. If a nuclear-weapon State asks the non-nuclear-weapon States to forego the nuclear option while insisting on retaining the possibility of striking them with nuclear weapons for itself, such a practice would run contrary to eliminating the motivation of certain countries to acquire and develop nuclear weapons. Nuclear deterrence reflected a security doctrine which was obsolete. This practice, based on building its own security on the non-security of others, was not in the interest of international peace and security. Under the new international circumstances, the nuclear-weapon States should, as soon as possible, renounce their nuclear-deterrence strategy and formulate a new security doctrine, in keeping with our times. They should take into fuller account the legitimate demand of the many non-nuclear-weapon States. On the question of negative security assurances, they should adopt a more positive,

fair and reasonable approach and policy. At the same time, between the nuclear-weapon States, they should conclude the treaties on the non-first-use of nuclear weapons. This would significantly contribute to the reduction of the danger of nuclear war and would be in the interest of mankind.

22. Another nuclear-weapon State reiterated its position on the question of security assurances and emphasized the need not only for universal adherence but also for compliance with the NPT. It made it clear once again that its Government did not regard this assurance as applicable if any beneficiary was in material breach of its own non-proliferation obligations under the NPT. Emphasizing the significance of regional arrangements in the form of nuclear-weapon-free zones, it was, for its part, looking forward to adding new parties to such treaties. It stated that, like other nuclear-weapon States, it was working actively with ASEAN States to enable it to sign the Protocol to the Bangkok Treaty and with Central Asian States on the establishment of a nuclear-weapon-free zone in their region.

23. A further nuclear-weapon State outlined its position and approach on negative security assurances, saying that it had always taken seriously the security concerns of the non-nuclear-weapon States Parties to the NPT and over the years had pursued practical steps to address these concerns. Thus, its three Presidents, in 1968, 1978 and 1995, had issued national declarations on positive and/or negative security assurances, covering all non-nuclear-weapon States Parties to the NPT. It unambiguously reaffirmed that the negative security assurances declaration of 5 April 1995 stood as an unequivocal statement of its global policy. Furthermore, the security assurances which that country had extended in the relevant Protocols to regional nuclear-weapon-free zones had been taken with no written reservations. They were legally-binding undertakings, consistent with generally recognized principles of international law not to use nuclear weapons. Speaking on its efforts and steps with the signature and the ratification of the relevant Protocols to the nuclear-weapon-free-zone treaties, it expressed its conviction that nearly one hundred non-nuclear-weapon States receiving legally-binding negative security assurances, through the nuclear-weapon-free zones, which they had initiated, negotiated and completed, demonstrated these assurances to be important, viable and legally-binding. It was also working closely with the States of Southeast Asia and Central Asia regions to increase the number of non-nuclear-weapon States Parties to the NPT eligible for negative security assurances to well beyond the number of one hundred. This State was ready to consider any ideas on how negative security assurances and positive security assurance arrangements might be extended and/or improved, and it was also ready to consider other nuclear-weapon-free-zone proposals that were consistent with long-standing criteria for such zones and with the 1995 NPT Review Conference decision. According to this State, these developments demonstrated its clear resolve to address the security concerns of the non-nuclear-weapon States through presidential declarations, resolutions of the United Nations Security Council and the encouragement of this Government's support and participation as Protocol party to the nuclear-weapon-free-zone treaties.

24. Speaking about the scope of existing negative security assurances, one delegation maintained its position that such assurances should be provided in an internationally negotiated legally-binding instrument negotiated in the Conference on Disarmament, and that such assurances should be unconditional at all times. It felt that the current conditionality of the unilateral declarations was in contradiction with article 2 of the United Nations Charter.

Turning to the specific situation of its region, it called upon the States which had not yet adhered to the NPT but had nuclear capability not to use or threaten to use nuclear weapons against non-nuclear-weapon States unconditionally.

25. One nuclear-weapon State briefly elaborated its national military doctrine, stating that it currently did not have any enemies and it was not threatened by war. It preferred non-military means of solving international problems, including collective action in the international community, against threats to peace and acts of aggression. Nevertheless, its military doctrine did allow that in the modern world, there still remained potential sources of the danger of war. It was particularly concerned at the expansion of military blocs and alliances, to the detriment of its interests.

26. The Ad Hoc Committee briefly discussed some definitions, as provided by the Programme of Work. Some countries offered their interpretations of various terms indicated in the Programme. Some of those countries emphasized that a clear understanding of certain terms and provisions of existing document would help the Committee to progress to a better understanding of the needs of a future international instrument.

27. One delegation suggested that the concept of "collateral damage" should be added to the list of definitions (b) of the Programme of Work. This delegation referred to the consequences - legal and otherwise - that would flow from the use or threat of use of nuclear weapons outside the geographical area of a nuclear-weapon-free zone but whose effects would be visited on the area covered by the nuclear-weapon-free zones. The delegation felt that there was a need to study this concept further in the light of the global nature of the threat posed by nuclear weapons.

28. However, another delegation pointed out that there was little practical significance in attempting to further clarify what was already understood. In its view, to do so would be a theoretical exercise so narrow, so specific and so limited that it would confuse rather than assist in the work of the Committee.

29. One delegation stated that the qualifications or conditions which were implied by the items listed under (b) of the Programme of Work were not acceptable as a part of the unconditional guarantee of negative security assurances to non-nuclear- weapon States because any discussion of each of these items would indicate the broad nature of the definitions that each one of these items could be subjected to the subjective nature of such interpretations, and therefore, virtually, the complete nullification of any security assurances that may be provided with such qualifications.

30. The Ad Hoc Committee addressed, in accordance with the Programme of Work, the issue of (c) new developments. Several States referred to the provision of unilateral declarations by the five nuclear-weapon States, the adoption of resolution 984 of the United Nations Security Council, the indefinite extension of the NPT and the adoption of the Final Document of this Conference, specifically the Principles and Objectives for Non-Proliferation and Nuclear Disarmament, and the establishment of this Ad Hoc Committee. Some States also listed as a significant development the adoption of the Advisory Opinion by the International Court of Justice. Other States also added, as a negative development, the disappointing results of the second Preparatory Committee of the NPT Review Conference held in May of this year. Some delegations mentioned the evolution of the nuclear-weapon-free-zone treaty regimes since 1995. It

should be noted that the discussions related to the Advisory Opinion of the International Court of Justice were inconclusive as while some claimed that the opinion and recommendations of the International Court of Justice were legally-binding, other participants stated that the Court's findings were not binding on Governments, while another delegation questioned the relevance of the ICJ Advisory Opinion to the work of the Ad Hoc Committee. Some delegations referred in this regard to the mandate of the International Criminal Court.

31. One delegation indicated that in its view, other developments needed to be taken into account in the Ad Hoc Committee. These were: the notion that after the indefinite extension of the NPT, nuclear weapons could be retained *in perpetuity*, which derogated from the concept of security assurances as a transient and transitional measure until complete nuclear disarmament is achieved; new doctrines for the possible use or threat of use of nuclear weapons against other weapons of mass destruction; the expansion of membership of nuclear security alliances; some nuclear-weapon States, which had in the past committed themselves to the non-first use of nuclear weapons, having disavowed that doctrine; and the demonstration of nuclear-weapons capability by two States, and the claim by one of them that it was a nuclear-weapon State, and the question of whether these States were entitled to receive or to give security assurances, together with one additional State presumed to possess nuclear weapons, which is also not party to the NPT.

32. On the issue of positive security assurances, the discussions in the Committee revealed the existence of four trends. While the proponents of the first were prepared to elaborate further and to seek ways in which to improve them, and the second were prepared to discuss them although they expressed serious doubts and reservations as to the efficiency and practicality of existing positive security assurances, the third were of the view that positive guarantees did not lend themselves to multilateral negotiations and should not be dealt with in a body such as the Conference on Disarmament, and the fourth emphasized the significance of United Nations Security Council resolutions 255 and 984.

33. During the discussions on the draft report, one delegation reiterated its position that the most appropriate venue for the consideration of negative security assurances was the NPT review process.

CONFERENCE ON DISARMAMENT

CD/1555
1 September 1998

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REPORT OF THE AD HOC COMMITTEE
UNDER ITEM 1 OF THE AGENDA ENTITLED "CESSATION OF THE
NUCLEAR ARMS RACE AND NUCLEAR DISARMAMENT"

I. INTRODUCTION

1. At its 802nd plenary meeting, on 11 August 1998, the Conference on Disarmament decided "to establish, under item 1 of its agenda entitled "Cessation of the nuclear arms race and nuclear disarmament", an ad hoc committee which shall negotiate, on the basis of the report of the Special Coordinator (CD/1299) and the mandate contained therein, a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices. The Ad Hoc Committee shall present a report to the Conference on Disarmament on the progress of its work before the conclusion of the 1998 session." (CD/1547)

In connection with the above decision, the President of the Conference made the following statement: "In connection with the decision we have just taken, I should like, in my capacity as President of the Conference, to state that the adoption of this decision is without prejudice to any further decisions on the establishment of further subsidiary bodies under agenda item 1 which may result from the provisions of paragraph 1 of decision CD/1501, and that the presidency will continue to pursue intensive consultations and to seek the views of the members of the Conference on appropriate methods and approaches for dealing with agenda item 1, entitled "Cessation of the nuclear arms race and nuclear disarmament", taking into consideration all proposals and views in this respect." (CD/1548)

II. ORGANIZATION OF WORK AND DOCUMENTS

2. At its 804th plenary meeting, on 20 August 1998, the Conference on Disarmament appointed Ambassador Mark Moher of Canada as Chairman of the Ad Hoc Committee for the current session. Mr. Jerzy Zaleski, Political Affairs Officer, United Nations Department for Disarmament Affairs, served as Secretary of the Ad Hoc Committee.

3. The Ad Hoc Committee held 2 meetings from 27 August to 1 September 1998. In addition, the Chairman conducted a number of informal consultations with delegations.

4. The following documents were submitted during the annual session of the Conference on Disarmament and were considered relevant to the work of the Ad Hoc Committee:

- CD/1485, dated 21 January 1998, submitted by the delegation of Canada, entitled "Working paper with regard to an ad hoc committee on a fissile material cut-off treaty".

- CD/1490, dated 28 January 1998, submitted by the delegation of the United States of America, entitled "Statement from the President of the United States upon the Occasion of the Opening Plenary of the 1998 Session of the Conference on Disarmament".

- CD/1492, dated 3 February 1998, submitted by the delegation of Austria, entitled "Draft decision on the reestablishment of an ad hoc committee to negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices".

- CD/1516, dated 28 May 1998, submitted by the delegation of Japan, entitled "Seminar Conference on Technical Issues for a Fissile Material Cut-off Treaty, 11 and 12 May 1998, Geneva, Chairman's Summary".

- CD/1542, dated 11 June 1998, entitled "Letter dated 10 June 1998 from the Permanent Representative of Sweden addressed to the Secretary-General of the Conference transmitting the English and Spanish texts of the Joint Declaration relating to Nuclear Disarmament of 9 June 1998 by the Foreign Ministers of Brazil, Egypt, Ireland, Mexico, New Zealand, Slovenia, South Africa and Sweden".

- CD/1545, dated 31 July 1998, submitted by the delegation of Algeria, entitled "Proposal under item 1 of the agenda of the Conference on Disarmament 'Cessation of the nuclear arms race and nuclear disarmament'".

- CD/1547, dated 11 August 1998, entitled "Decision on the establishment of an ad hoc committee under item 1 of the agenda entitled "Cessation of the nuclear arms race and nuclear disarmament".

- CD/1548, dated 11 August 1998, entitled "Statement made by the President following the adoption of decision CD/1547 on the establishment of an ad hoc committee under item 1 of the agenda entitled "Cessation of the nuclear arms race and nuclear disarmament".

- CD/1549, dated 12 August 1998, entitled "Statement by the Group of 21".

- CD/1550, dated 12 August 1998, entitled "Letter dated 12 August 1998 from the Permanent Representative of Austria addressed to the Secretary-General of the Conference transmitting the text of a press statement by the Austrian Foreign Minister Wolfgang Schussel in his capacity as President of the Council of the European Union on the decision of the Conference on Disarmament to establish an ad

hoc committee to negotiate a treaty banning the production of fissile material used in nuclear weapons issued in Vienna on 11 August 1998".

- CD/1551, dated 18 August 1998, entitled "Letter dated 14 August 1998 from the Permanent Representative of the Philippines addressed to the Secretary-General of the Conference on Disarmament transmitting the text of the statement of the Philippine Secretary of Foreign Affairs, the Hon. Domingo L. Siazon, on the establishment of an ad hoc committee to negotiate a treaty banning the production of fissile material".

III SUBSTANTIVE WORK DURING THE 1998 SESSION

5. During the meetings of the Ad Hoc Committee, delegations had a general exchange of views, as a first step in the substantive negotiations.

IV. CONCLUSIONS AND RECOMMENDATIONS

6. It was agreed to recommend to the Conference on Disarmament to re-establish the Ad Hoc Committee at the beginning of the 1999 session.